

MAYER BROWN LLP  
LEE H. RUBIN (SBN 141331)  
lrubin@mayerbrown.com  
EDWARD D. JOHNSON (SBN 189475)  
wjohnson@mayerbrown.com  
DONALD M. FALK (SBN 150256)  
dfalk@mayerbrown.com  
ERIC B. EVANS (SBN 232476)  
eevans@mayerbrown.com  
ANNE M. SELIN (SBN 270634)  
aselin@mayerbrown.com  
Two Palo Alto Square, Suite 300  
3000 El Camino Real  
Palo Alto, CA 94306-2112  
Telephone: (650) 331-2000  
Facsimile: (650) 331-2061

*Attorneys for Defendant  
Google Inc.*

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

**IN RE: HIGH-TECH EMPLOYEE  
ANTITRUST LITIGATION**

**THIS DOCUMENT RELATES TO:**

## ALL ACTIONS

**Master Docket No. 11-CV-2509-LHK**

**DECLARATION OF ERIC B. EVANS IN  
SUPPORT OF DEFENDANTS' JOINT  
ADMINISTRATIVE MOTION TO FILE  
UNDER SEAL**

I, Eric B. Evans, declare as follows:

1. I am a partner with the law firm of Mayer Brown LLP, counsel for Defendant Google, Inc. (“Google”) in the above-captioned matter. I am admitted to practice law before this Court. I submit this declaration in support of Defendants’ Joint Administrative Motion To File Under Seal. As an attorney involved in the defense of this action, unless otherwise stated, I have personal knowledge of the facts stated in this declaration and if called as a witness, I could and would competently testify to them.

1           2. I have read and reviewed the Declarations of Frank Wagner (Google's Director of  
 2 Compensation) that were filed on October 9, 2012, November 12, 2012 and December 18, 2012  
 3 (Dkts. 201, 221 and 261, respectively) in this matter. In those Declarations, Mr. Wagner  
 4 describes the competitive harm that Google would suffer if certain confidential and highly  
 5 sensitive details about Google's compensation, recruiting, and hiring strategies and practices,  
 6 including confidential details about Google's internal deliberations and business strategy related  
 7 to how Google sets compensation for its employees, as well as how Google might respond to  
 8 competition for its employees from other employers.

9           3. Google has reviewed (a) Defendant Google Inc.'s Reply in Support of Its Motion  
 10 for Summary Judgment and the attached exhibits, filed on February 27, 2014 and (b)  
 11 Defendants' Reply In Support Of Joint Motion To Exclude The Expert Testimony Of Edward E.  
 12 Leamer, Ph.D and attached exhibits.

13          4. Google has identified and made specific and narrowly tailored redactions—which  
 14 are detailed in paragraphs 5 and 6, below—to particular portions of its Reply In Support Of Its  
 15 Motion for Summary Judgment with attached exhibits and Defendants' Reply In Support Of  
 16 Joint Motion To Exclude The Expert Testimony Of Edward E. Leamer, Ph.D with attached  
 17 exhibits that contain confidential and highly sensitive details about Google's recruiting and  
 18 hiring strategies and practices and that reflect Google's internal deliberations and business  
 19 strategy related to how Google approaches recruiting and hiring, and personal identifying  
 20 information of individuals recruited by Google.

21          5. In particular, Google requests to seal the following portions of an exhibit attached  
 22 to its Reply in Support of Its Motion for Summary Judgment:

23           **a) Excerpts from the deposition of Eric Schmidt taken on February 20, 2013:**

24           i) Page 165:2 (only the name of an employee recruited by Google)

25          6. In particular, Google also requests to seal portions of the following exhibits  
 26 attached to Defendants' Reply In Support Of Joint Motion To Exclude The Expert Testimony Of  
 27 Edward E. Leamer, Ph.D:

28

1           a) **Expert Report of Professor Kevin Murphy dated November 12, 2012.** The  
 2           following portions of Professor Murphy's report contain highly confidential and  
 3           highly sensitive information related to Google's recruiting and compensation  
 4           practices and data. It is also my understanding that the Court previously granted  
 5           Google's request to seal the below portion of this report in the Court's Order  
 6           Granting in Part and Denying in Part Motions to Seal (Dkt. 509):  
 7               i)      Page 13, footnote 20 (last clause of last sentence only, listing employers)  
 8               ii)     Page 14, Paragraph 20 (third sentence relating to Google's use of third-  
 9                   party market data)  
 10              iii)    Page 14, footnote 24 (last parenthetical only)  
 11              iv)     Page 21, Paragraph 35 (figures in last sentence only)  
 12              v)     Page 25, Paragraph 43 (last two sentences only)  
 13              vi)    Page 26, Paragraph 45 (portion of third sentence only)  
 14              vii)   Pages 26-27, Paragraph 46 (fourth sentence only)  
 15              viii)   Pages 42-43, Paragraph 78 (last three sentences only)  
 16              ix)    Page 45, footnote 107  
 17              x)    Page 47, footnote 114 (first sentence only)  
 18              xi)   Page 54, Paragraph 95 (percentage figures in last sentence only)  
 19              xii)   Page 78, Paragraph 146 (percentage figure and description before the term  
 20                   "rate" in last sentence)  
 21              xiii)   Exhibits 3, 5, 6, 7A, 7B, 8A, 8B, 9B, 10, 11B, 15B  
 22              xiv)   Appendices 1A, 1B, 1C, and 1D

23           7.      Based on the previous declarations submitted by Frank Wagner, the information  
 24           in portions of the Defendant Google Inc.'s Reply in Support of Its Motion for Summary  
 25           Judgment with attached exhibits and Defendants' Reply In Support Of Joint Motion To Exclude  
 26           The Expert Testimony Of Edward E. Leamer, Ph.D with attached exhibits —as identified above  
 27           in Paragraphs 5 and 6—is confidential and highly sensitive commercial information, from which  
 28           Google derives economic benefit by maintaining its confidentiality or sensitive personally

1 identifying information. Dkts. 201, 221 and 261. Google does not disclose this information to  
2 its competitors, customers or the general public. *Id.* Public disclosure of this information would  
3 likely result in competitive harm to Google by giving third parties, including its competitors in  
4 the labor market, direct insight into confidential and sensitive aspects of Google's internal  
5 decision-making processes and business strategy related to employee hiring and recruiting. *Id.*

6

7 I declare under penalty of perjury that the foregoing is true and correct.

8 Executed on February 27, 2014 in Palo Alto, California. /s/ Eric B. Evans  
9 Eric B. Evans

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